Lansing Police Department Internal Board of Review

Re: Police Shooting of Derrinesha Clay

The Lansing Police Department Internal Board of Review was comprised of Captain Raymond Hall, Lieutenant Noel Garcia, Sergeant Drew Macon, Police Legal Advisor Michael Mathis, Esq. and Captain Michael Yankowski. The Board was charged with determining whether administrative procedures, policies, training and rules of the Lansing Police Department were followed.

Incident Summary

On March 14, 2011 at 3:29 a.m. the Lansing 911 Communications Center received a report of a silent teller alarm at the Bank of America located at 3215 S Martin Luther King in the City of Lansing from Bank of America Security Command.

Officer Burke, the first officer on scene observed a ripped screen and a broken glass window on the southeast corner of the bank. He radio-reported in and requested additional officers. While en route, Officer Johnson and K-9 Officer Rendon discussed the feasibility of safely deploying the police canine through the broken window into a footpath of observed glass shards. Other officers arrived on scene and a perimeter was established. K-9 Officer Rendon determined that it would not be safe to deploy the police canine due to the significant amount of glass on the floor at the available entry into the building.

Instead, Officers Burke, Johnson and Rendon entered through the initially observed broken window to conduct a security check and clearing of the bank. During the clearing maneuver, the officers contacted several locked doors in the main portion of the building. Moving forward, without having concluded the building clearing, they entered a small break room which was adjoined to yet a smaller storage closet.

Officers Rendon and Johnson located a female subject (later identified as, Derrinesha Clay) behind the storage closet door. Noticing Clay dangling a pair of scissors in one hand, the officers ordered Clay to drop the scissors. She did not. Both Officers holstered their duty weapons in an attempt to use non-lethal techniques to disarm Clay of the dangling scissors. She struggled with the officers in the small storage closet. Officer Burke, now aware of the struggle, considered but was unable to enter the crowded area. In this room, Officer Johnson disarmed Clay of the scissors. However, once removed of the scissors, Clay immediately produced a steak knife, with which she slashed and poked at the stomach area of Officer Rendon. Officer Rendon announced "KNIFE." Officer Johnson back pedaled the few available feet into the confined corner of the small room and sought to draw her handgun. With scant available space in the small storage closet and still in close proximity, Officer Rendon unholstered and fired two shots from his duty handgun, fatally wounding Clay.

Sergeant Baldwin immediately separated the involved officers and ordered them transported to the Investigations Division. Sergeant Baldwin ordered the completion of the clearing of the building. Duty Captain Raymond Hall was contacted. Captain Hall contacted the Michigan State Police (MSP).

The Board Reviews

Decision to Not Deploy a Police Canine

According to LPD Procedure 700-7 Canine Utilization, Sec.IV, (B), prior to conducting a building or area search, the canine officer will attempt to determine physical conditions and contents of the area or building that may be injurious to the canine. Those portions that might be injurious to the canine will not be searched by the canine.

Prior to K-9 Officer Rendons arrival on scene, K-9 Officer Rendon inquired via the police radio if there was a way to put his canine partner through the window without getting cut. Officer Johnson informed K-9 Officer Rendon of the broken glass on the floor, and suggested use of the canine might not be a good idea. Once on scene, K-9 Officer Rendon made a visual assessment of the amount of glass outside and inside the building. K-9 Officer Rendon made the decision to not deploy the police canine due to the high risk of injury to the canine's footpads from the broken shards of glass.

Board Findings Regarding Use of a Canine

The Board concludes that the decision made by Officer Rendon was based upon his discretion and assessment of the amount of glass he observed.

The Board recommends that in the event the conditions of an area are limited to a small footage, that reasonable and safe alternatives or feasible options be considered and evaluated. Possible options are recommended for consideration: Options such as the use of a portable protective mat, hand-carry of the dog over the known danger or obstruction to a safe area, conduct human officer initiated building clearing to an area of the building where a canine may safely be introduced for clearing completion, or waiting for a key holder.

The Board recommends that additional training be provided to LPD Canine Handlers regarding situational and tactical awareness. In a situation where a police canine cannot be deployed, consider alternative use or location deployment which may prove beneficial to the officers. Perimeter containment is but one example.

Use of Force

Deadly Force, as a term of art in law enforcement, is the amount of force that will likely result in great bodily harm or death. Non-Deadly force (or less then lethal) is the amount of force that will not likely result in serious injury or death. Less then lethal force includes use of techniques, and/or equipment. Examples of less then lethal include personal defensive tactics or maneuvers, restraint devices,

Electronic Control Weapons- ECW's (such as the Taser¹) baton, bean bag, pepper spray and other specialized devices. As a matter of policy, the LPD does not use less lethal methods to initiate building searches and clearings as such a practice could endanger the lives of the officers performing and potentially the lives of innocent citizens.

Officers responded to the scene of a bank alarm at 3:29 a.m. and confirmed that a subject likely <u>entered</u> the building. It was not known if anyone was inside. Prior to making entry into the bank, officers made loud verbal announcements such as, "POLICE, LET YOURSELF BE KNOWN." After getting no response, Officers Rendon, Johnson and Burke, gained entry into the bank through the broken window. The officers were in full police uniform. Officers began a three (3) officer building search clearing maneuver while yelling, "POLICE, MAKE YOURSELF KNOWN" with their duty weapons out and at the low ready position. As they moved towards the teller counter, Officer Rendon attempted to enter a door next to the teller counter, but it was locked. Officers Rendon and Johnson jumped over the counter while Officer Burke remained posted on the opposite side.

Officers Rendon and Johnson continued to search through the building until they came to a small storage closet. The door to the small storage closet was ajar and Officer Rendon saw the shades moving back and forth. He made announcements again and stepped back to look through the crack of the door. Officer Rendon saw what he believed to be a coat with fur on it. He made additional announcements and kicked the bottom of the door with his boot.

After kicking the door, Officer Rendon entered the small storage closet yelling commands, "LANSING POLICE, SHOW ME YOUR HANDS". Officer Rendon reached behind the door and grabbed the back of a subject's (Clay's) coat. Clay had a pair of blue handled scissors in her hand and was screaming.

¹ 2011 Electronic Control Weapons Guidelines Police Executive Research Forum (PERF) and U.S. Department of Justice Office of Community Oriented Policing Services rendered that Electronic Control Weapons (ECWs) are less than lethal weapons.

These scissors matched the kind used within the bank and may have been retrieved by the suspect as she moved through the bank.

Officer Rendon re-holstered his handgun and used less then lethal techniques to force her down to the floor. Verbal orders to drop the scissors continued during this time. Officers Rendon and Johnson began to wrestle with Clay in an attempt to get the scissors from her. Officer Johnson, also utilizing less then lethal techniques, was able to disarm the scissors from Clay. Instantaneously, Officer Rendon saw Clay reach into her coat pocket and pull out a "steak" knife. Clay slashed and poked at Rendon's stomach area. Officer Rendon immediately released Clay, yelled, "KNIFE". Officer Johnson backed away and began to unholster her handgun. Clay continued to lunge from a position on her knees towards Officer Rendon while slashing the knife left to right and back and forth near his midsection. Officer Rendon drew his handgun from his holster and fired two shots.

Officer Rendon stated that he was crouching with his knees bent, backing away from the suspect when he fired his weapon. Officers immediately attempted to render first aid.

When Officer Burke heard voices he jumped the tellers' counter and quickly moved to the break room. Officer Burke witnessed Officers Johnson and Rendon struggle with Clay over the scissors and heard the order to drop them. Officer Burke witnessed Clay with the knife slashing at Officer Rendon. Due to the confined space, however, Officer Burke was unable to intervene.

Ingham County Prosecutor Stuart Dunnings III, reviewed the MSP Criminal Investigation² of this incident to determine if LPD Officer Brian Rendon's use of deadly force was justifiable, as a matter of law. Prosecutor Dunnings concluded: "It is my belief that the shooting was a justifiable act of self-defense by the Officer. As such, no charges will be filed against any person."

The Lansing Police Department's Use of Force Procedure, # 600-7 states:

"An officer may use deadly force under the following circumstances: ... In self-defense or to defend the life of another person whenever there is an honest and reasonable belief that there is an immediate threat of death or serious bodily harm."

Board Findings As To The Officers Use Of Force

The Board concludes this was a Deadly Force incident. Although less then lethal force techniques were employed during the events which transpired within the small storage closet as to the scissors, the matter quickly transitioned to a deadly force incident by the presentation by the deceased of the black handled knife in a poking and slashing manner to the midsection of and in close proximity to the officer.

The Board finds that Officers Rendon's and Johnson's use of force in disarming the subject of the scissors was consistent with the employment of less then lethal techniques as trained.

The Board finds that Officer Rendons' use of Deadly Force was appropriate in his self-defense and in the defense of his partner. It is the conclusion of the Board that it was reasonable for the officer to honestly believe there was an immediate threat of death or serious bodily harm probable by the knife wielding subject. The officer's action therefore was consistent with LPD policy, procedures, and current training.

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² The Michigan State Police were asked to investigate this shooting in accordance with Lansing Police Department Operational Procedure 300-24, Outside Investigation. The Michigan State Police report was reviewed as part of this investigation

Summary of Recommendations

The Board recommends that the Chief:

- Direct the Canine Supervisor to provide additional training to canine handlers regarding situational and tactical awareness when deciding to deploy a police canine.
- 2. Direct the Lansing Police Department Procedure Committee to develop a Post Officer Involved Shooting Procedure.